

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA
Plaintiff,

v.

Case No. 12-CR-116

PHILLIP WENTZEL
Defendant.

SCHEDULING ORDER

Defendant Phillip Wentzel filed a motion for return of property under Fed. R. Crim. P. 41(g). The government responds that it is no longer in possession of the requested items: the Dell laptop and internal hard drive were destroyed pursuant to the court's forfeiture order; the Dell desktop computer was returned by the FBI to defendant's then-wife in August 2012; and the U.S. Cellular telephone was returned on behalf of defendant's then-wife in November 2013.

"Since in the usual case the only relief sought by the Rule 41(g) motion is return of the property by the government, the fact that the government doesn't have it is ordinarily a conclusive ground for denial of the motion." Okoro v. Callaghan, 324 F.3d 488, 490-92 (7th Cir. 2003). Nor may a defendant use Rule 41(g) to challenge a completed forfeiture. See Young v. United States, 489 F.3d 313, 315 (7th Cir. 2007). I will permit defendant to file a reply before ruling.

IT IS ORDERED that defendant may file a reply to the government's response on or before **April 6, 2015**.

Dated at Milwaukee, Wisconsin, this 6th day of March, 2015.

/s/ Lynn Adelman
LYNN ADELMAN
District Judge